

Regular Session, 2010

SENATE BILL NO. 418

BY SENATOR KOSTELKA

ETHICS. Provides relative to the Code of Governmental Ethics. (gov sig)

AN ACT

To amend and reenact R.S. 42:1141(C)(3)(a), (c) and (d) and 1163, and to enact R.S. 42:1141(C)(3)(e), relative to enforcement of laws within the jurisdiction of the Board of Ethics; to provide for procedures relative to such enforcement; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 42:1141(C)(3)(a), (c) and (d) and 1163 are hereby amended and reenacted and R.S. 42:1141(C)(3)(e) is hereby enacted to read as follows:

§1141. Procedure; adjudicatory board

* * *

C. Investigation and hearing.

* * *

(3)(a) If the board determines following an investigation that a public hearing should be conducted, the board shall issue charges **in a letter sent by certified mail to the person accused of a violation ("charges")**. A public hearing shall be conducted to receive evidence relative to the facts alleged in the charges and to determine whether any violation of any provision of law within the jurisdiction of

1 the board has occurred. The public hearing on such charges shall be conducted by
2 the Ethics Adjudicatory Board in accordance with the Administrative Procedure Act
3 and this Part.

4 * * *

5 (c) ~~If the board does not issue charges~~ **A matter shall be dismissed if the**
6 **board does not issue charges** within one year from the date upon which a **signed**
7 sworn complaint is **was** received **by the board or its staff** or, if no sworn complaint
8 was received, within one year from the date the board voted to consider the matter,
9 the matter shall be dismissed.

10 **(d) If no signed sworn complaint was received, a matter shall be**
11 **dismissed if either:**

12 **(i) The board does not issue charges within two years from the date the**
13 **board or its staff discovers the alleged violation.**

14 **(ii) The board does not issue charges within one year from the date the**
15 **board voted to consider the matter as provided for in Subsection B.**

16 ~~(d)~~ **(e)** The board shall consider offering a consent opinion to each person
17 who is the subject of an investigation.

18 * * *

19 §1163. Prescription

20 ~~No action~~ **The Board of Ethics shall not issue charges** to enforce any
21 provision of this Chapter ~~shall be commenced~~ after the expiration of ~~two~~ **four** years
22 following ~~the discovery of the occurrence of the alleged violation, or four years after~~
23 ~~the occurrence of the alleged violation, whichever period is shorter.~~ **This four year**
24 **period is a preemptive period that may not be interrupted.**

25 Section 2. This Act shall become effective upon signature by the governor or, if not
26 signed by the governor, upon expiration of the time for bills to become law without signature
27 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
28 vetoed by the governor and subsequently approved by the legislature, this Act shall become
29 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement, Jr.

DIGEST

Kostelka (SB 418)

Present law provides that if the Board of Ethics determines following an investigation that a public hearing should be conducted, the board is to issue charges and a public hearing will be conducted to receive evidence relative to the facts alleged in the charges and to determine whether any violation of any provision of law within the jurisdiction of the board has occurred. Present law provides that the public hearing on such charges will be conducted by the Ethics Adjudicatory Board in accordance with present law.

Proposed law provides that if the Board of Ethics determines following an investigation that a public hearing should be conducted, the board must issue charges in a letter sent by certified mail to the person accused of a violation, to be known as the "charges."

Present law provides that if the board does not issue charges within one year from the date upon which a sworn complaint is received or, if no sworn complaint was received, within one year from the date the board voted to consider the matter, then the matter is to be dismissed.

Proposed law specifies that a sworn complaint must be signed, and that such complaint can be received by the board or its staff.

Proposed law further provides that a matter is to be dismissed if the board does not issue charges within one year from the date upon which a signed sworn complaint was received by the board or its staff.

Proposed law further provides that if no signed sworn complaint was received, a matter is to be dismissed if either:

- (1) The board does not issue charges within two years from the date the board or its staff discovers the alleged violation.
- (2) The board does not issue charges within one year from the date the board voted to consider the matter as provided for in present law.

Present law provides that the board is required to consider offering a consent opinion to each person who is the subject of an investigation.

Present law provides that no action to enforce any provision of present law (Code of Governmental Ethics) can be commenced after the expiration of two years following the discovery of the occurrence of the alleged violation, or four years after the occurrence of the alleged violation, whichever period is shorter.

Proposed law provides that the Board of Ethics cannot issue charges to enforce any provision of present law (Code of Governmental Ethics) after the expiration of four years following the occurrence of the alleged violation, and specifies that this four year period is a preemptive period that may not be interrupted.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 42:1141(C)(3)(a), (c) and (d) and 1163; adds R.S. 42:1141(C)(3)(e))